

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILIP MORRIS INC., et al.,

Defendants.

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Civil Action No. 99-CV-02496 (GEM)

Next Scheduled Court Appearance:
July 19, 2002

TOBACCO LITIGATION

2002 APR 19 P 3 48

**RESPONSE OF BROWN & WILLIAMSON TOBACCO CORPORATION TO THE
UNITED STATES' FIRST SET OF REQUESTS FOR ADMISSION TO ALL
DEFENDANTS**

Pursuant to the Ninth Case Management Order dated March 26, 2001 ("CMO9"), Defendant Brown & Williamson Tobacco Corporation, individually and as successor by merger to The American Tobacco Company ("Brown & Williamson"), responds and objects to the Plaintiff United States of America's ("Plaintiff") First Set of Requests for Admissions to All Defendants (the "Requests").

RECURRING OBJECTIONS

Privileged and Otherwise Protected Documents

1. Brown & Williamson objects to these Requests on the grounds that they seek the disclosure of documents or information protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege, exemption, or immunity. Inadvertent disclosure of any documents or information shall not be a waiver of any claim of privilege, work product protection, or any other exemption.

REQUEST TO ADMIT NO. 39:

Admit that nicotine is a substance in cigarettes that is addictive.

RESPONSE TO REQUEST TO ADMIT NO. 39:

Brown & Williamson incorporates Recurring Objections Numbers 7 and 10 in response to this Request.

Subject to and without waiving its objections, Brown & Williamson admits that nicotine is a substance in cigarettes that can be addictive, under the definition of "addiction" used in the 1988 Surgeon General's Report, but denies that nicotine is the only reason people enjoy smoking.

Except as specifically admitted, Brown & Williamson denies this Request.

REQUEST TO ADMIT NO. 50:

Admit that in 1963, Brown & Williamson's general counsel stated: "[N]icotine is addictive. We are, then, in the business of selling nicotine, an addictive drug effective in the release of stress mechanisms." (Nicotine in Cigarettes and Smokeless Tobacco Is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act, Jurisdictional Determination, 61 Fed. Reg. 44619, 44884 (1996)).

RESPONSE TO REQUEST TO ADMIT NO. 50:

Brown & Williamson incorporates Recurring Objection Number 1 in response to this Request.

Subject to and without waiving its objections, Brown & Williamson admits only that Plaintiff has accurately quoted a portion of a memorandum written by Brown & Williamson's general counsel, which did not necessarily reflect the view and/or position of Brown & Williamson at the time it was written.

Except as specifically admitted, Brown & Williamson denies this Request.

REQUEST TO ADMIT NO. 59:

Admit that you are able to alter and/or control the amount of nicotine in your cigarettes as they are manufactured.

many diseases, but sought to point out the scientific fact that absent knowledge of the mechanisms for disease causation, it was handicapped in its ability to produce a safer product. Because this position was mistakenly taken by some as a denial of causation, in more recent years Brown & Williamson has studied how it could more clearly communicate its positions. That process included launching an Internet website in November 1997 through which it could communicate directly to the public. The articulation of its position on the website and elsewhere had evolved in response to continuing misunderstandings over whether Brown & Williamson believed cigarettes to be a cause of disease. As reflected on its website today, Brown & Williamson's scientists have concluded that, assessing all of the scientific evidence together, the best judgment is that smoking is a cause of disease. This judgment reflects consideration of all the evidence available to Brown & Williamson, not simply the epidemiology. It is not the result of any specific study or development.

Except as specifically admitted, Brown & Williamson denies this Request.

REQUEST TO ADMIT NO. 36:

Admit that cigarettes are addictive.

RESPONSE TO REQUEST TO ADMIT NO. 36:

Brown & Williamson incorporates Recurring Objections Numbers 7 and 10 in response to this Request.

Subject to and without waiving its Objections, Brown & Williamson admits that, by current definitions of the term "addiction," including that of the Surgeon General in 1988, cigarette smoking is addictive.

Except as specifically admitted, Brown & Williamson denies this Request.